



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/084,235 | 02/25/2002 | Michael John Reed | 674519-2001.4 | 6335 |

20999 7590 05/23/2005
FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

EXAMINER

BADIO, BARBARA P

ART UNIT PAPER NUMBER

1617

DATE MAILED: 05/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------------|----------------------------|--|
| Office Action Summary | Application No. 10/084,235 | Applicant(s) REED ET AL | |
| | Examiner Barbara P. Badio, Ph.D. | Art Unit 1617 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7,8,10,11 and 16-20 is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☒ Claim(s) 6,9 and 12-15 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Double Patenting

- 1. The rejection of claims 6-20 under the judicially created doctrine of obviousness-type double patenting over claims of US Patent No. 5,616,574 is made moot by the filing of a terminal disclaimer.**
- 2. The rejection of claims 6-20 under the judicially created doctrine of obviousness-type double patenting over claims of US Patent No. 6,187,766 is made moot by the filing of a terminal disclaimer.**
- 3. The rejection of claims 6-20 under the judicially created doctrine of obviousness-type double patenting over claims of US Patent No. 6,642,397 is made moot by the filing of a terminal disclaimer.**
- 4. The rejection of claims 12-16 and 19 under the judicially created doctrine of obviousness-type double patenting over claims of US Patent No. 6,653,298 is withdrawn.**
- 5. The rejection of claims 6-20 under the judicially created doctrine of obviousness-type double patenting over claims of copending Application No. 09/794,853 is made moot by the filing of a terminal disclaimer.**

Art Unit: 1617

6. The rejection of claims 6-20 under the judicially created doctrine of obviousness-type double patenting over claims of copending Application No. 10/013,798 is made moot by the filing of a terminal disclaimer.

7. The rejection of claims 6-20 under the judicially created doctrine of obviousness-type double patenting over claims of copending Application No. 10/165,599 (now US Patent No. 6,858,597) is made moot by the filing of a terminal disclaimer.

8. The rejection of claims 6-20 under the judicially created doctrine of obviousness-type double patenting over claims of copending Application No. 10/367,622 is made moot by the filing of a terminal disclaimer.

9. The rejection of claims 6-20 under the judicially created doctrine of obviousness-type double patenting over claims of US Patent No. 6,670,353 is made moot by the filing of a terminal disclaimer.

Allowable Subject Matter

10. Claims 7, 8, 10, 11 and 16-20 are allowed.

Claim Objections

11. Claims 6, 9 and 12-15 are objected to as containing nonelected subject matter.

Art Unit: 1617

Note: The claims are allowable to the extent they read on the elected subject matter (see restriction requirement and applicant's response dated May 6, 2003 and September 9, 2003, respectively).

Conclusion

12. This application is in condition for allowance except for the following formal matters:

The presence of nonelected subject matter in claims 6, 9 and 12-15.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Other Matters

13. As indicated in the previous Office Action, applicant has not filed certified copies of several foreign priority documents.

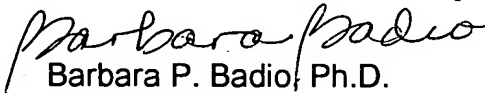
14. It is requested that applicant update the cross-reference section of the present specification indicating the Patent No. of divisional application No. 09/579,163.

Telephone Inquiry

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barbara P. Badio, Ph.D. whose telephone number is 571-272-0609. The examiner can normally be reached on M-F from 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreenivasan Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Barbara P. Badio, Ph.D.
Primary Examiner
Art Unit 1617

BB
May 18, 2005